IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 41 OF 2005

Shri Shriram S. Yadav,
Proprietor, M/s. Pushpa
Engineering Works, age 64 years,
Occupation : Government Contractor
and Engineer, Carvalho's Flat,
Mangor Hill, Vasco-da-Gama 403 802. ..... Petitioner.

V/s.

1) Chief Engineer,
HQ Southern Command,
Engineers Branch,
Pune – 411 001.

2) Jt. D.G. Contracts,
HQ Southern Command,
Engineers Branch,
Pune – 411 001.

3) Union of India, through Secretary
Ministry of Defence,
New Delhi 110 ..... Respondents.

Mr. S.D. Lotlikar, Sr. Advocate with Mr. R.S. Sardessai, Advocate for the petitioner.

Mr. E.P. Badrinarayanan, Addl. Central Government Standing Counsel,

Advocate for the respondents.

CORAM : A.P. LAVANDE &
N.A. BRITTO, JJ.

DATE : 28th February, 2005.

ORAL JUDGMENT : (Per LAVANDE, J.)

Mr. Lotlikar, learned Senior Advocate with Mr. Sardessai, learned Advocate appearing on behalf of the petitioner seeks leave to join Union of India as respondent No.3. Leave granted. The amendment to the cause title to be carried out forthwith.

2. Rule. Mr. Badrinarayanan waives notice on behalf of the respondents. By consent of the learned Counsel appearing for the parties, heard forthwith.

3. By this petition, the petitioner who is a registered contractor with respondent No.1 challenges action of respondent No.1 in removing his name from the list of approved contractors. By communication dated 13.11.2004, respondent No.1 has removed the name of the petitioner from the list of approved contractors.

4. Mr. Lotlikar, learned Senior Advocate submitted that before removing the name of the petitioner from the list of approved contractors, no show cause notice was given to the petitioner and, therefore, the action of respondent No.1 is clearly in breach of the principles of natural justice and on this count alone, the impugned communication dated 13.11.2004 deserves to be quashed and set aside.

5. Mr. Badrinarayanan, learned Counsel appearing on behalf of the respondents submitted that show cause notice was given to the petitioner, but respondents are not averse to giving a fresh show cause notice before taking action of removal of the name of the petitioner from the list of approved contractors in case it is held that no proper show cause notice was given to the petitioner.

6. It is well settled that before the name of a person is removed from the approved list of contractors, show cause notice has to be given to him. In the present case, we find that respondent No.1 has not given show cause before taking action of removal of the name of the petitioner from the list of approved contractors. On this count alone, the petition is liable to be allowed and accordingly, communication bearing reference No.800006/6/D- 1036/147/E dated 13.11.04, removing the name of the petitioner from the list of approved contractors with the Southern Command, is quashed and set aside. However, it is made clear that the respondents are at liberty to give show cause notice to the petitioner, if they are so advised. Petition stands disposed of, Rule made absolute in the aforesaid terms.

A.P. LAVANDE, J.

N.A. BRITTO, J.

ssm.